

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
NRS Enterprises, Inc.)	File Number EB-02-AT-329
)	
Owner of Unregistered Antenna Structure located at)	NAL/Acct. No.200332480004
35° 20' 36" North Latitude by 086° 12' 00" West)	
Longitude in Tullahoma, Tennessee)	FRN 0000-0394-46
)	
Tullahoma, Tennessee)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: November 5, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find NRS Enterprises, Inc. ("NRS"), owner of the antenna structure located in Tullahoma, Tennessee, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").¹ Specifically, we find NRS apparently liable for failing to register its antenna structure.

II. BACKGROUND

2. On April 7, 1999, an agent from the FCC Enforcement Bureau's Atlanta Office ("Atlanta Office") inspected the antenna structure located at licensed geographical coordinates 35° 20' 36"N / 086° 12' 00"W and belonging to NRS Enterprises, Inc, licensee of AM radio station WJIG in Tullahoma, Tennessee. A Notice of Violation ("NOV") was issued to NRS on April 9, 1999 for failure to register its antenna structure.

3. On April 20, 1999, the Atlanta Office received a reply to the NOV from WJIG indicating they ordered the tower registration form from the FCC and would submit it when received. In a letter dated April 20, 1999, WJIG stated that they obtained and submitted the antenna registration form and would display the registration number at the tower structure when it was received.

4. On July 29, 2002, the Commission's Atlanta Office received a report of an unlit antenna structure in Tullahoma, Tennessee belonging to AM radio broadcast station WJIG. The Commission's Antenna Structure Registration database showed no registered antenna structures within a two mile radius of the licensed geographical coordinates 35° 20' 36"N / 086° 12' 00"W for radio station WJIG, nor any structures registered to NRS.

¹ 47 C.F.R. § 17.4(a).

5. On August 25, 2002, an agent from the Atlanta Office inspected the tower structure located at licensed geographical coordinates 35° 20' 36"N / 086° 12' 00"W and belonging to NRS Enterprises, Inc, licensee of AM radio station WJIG in Tullahoma, Tennessee. The tower lights were in operation but the antenna structure registration number was not found at or near the tower structure. Still on August 25, 2002, the agent conducted an inspection of AM radio station WJIG and no tower registration certificate could be produced.

6. On September 27, 2002, WJIG faxed a copy of the tower registration form they state was sent to the FCC in April 1999 but WJIG failed to provide a tower registration certificate. In addition, the registration form was missing evidence of an FAA study which is required for antenna structure registration.

7. On November 5, 2002, a search of the Commission's Antenna Structure Registration database still indicated no registered antenna supporting structure within a two mile radius of the licensed geographical coordinates 35° 20' 36"N / 086° 12' 00"W for radio station WJIG, nor any antenna supporting structure registered to NRS Enterprises, Inc.

III. DISCUSSION

8. Section 17.4(a) of the Rules provides that, effective July 1, 1996, owners of any existing antenna structures that require notification to the Federal Aviation Administration ("FAA") must register the structure with the Commission. Section 17.4(a)(2) of the Rules provides that, effective July 1, 1998, owners of an antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, must register the structure with the Commission. NRS's antenna structure required notification to the FAA because the structure exceeded 200 feet in height.² Therefore, NRS's antenna structure required Commission registration. From at least April 7, 1999, to November 4, 2002, NRS failed to register its antenna structure with the Commission.

9. Based on the evidence before us, we find NRS willfully³ and repeatedly⁴ violated Section 17.4(a) of the Rules by failing to register its antenna supporting structure.

10. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to file

² See 47 C.F.R. § 17.7(a).

³ Section 312(f)(1) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

required forms or information (i.e. failure to file an application for antenna structure registration) is \$3,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ NRS Enterprises, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Rules by failing to register its antenna supporting structure.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, NRS Enterprises, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

14. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁹ See 47 C.F.R. § 1.1914.

forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

17. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to NRS Enterprises, Inc., 607 E. Carroll Street, Tullahoma, Tennessee 37388.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

Attachment